

Minneapolis Community Development Agency

## Request for City Council Action

Date: October 17, 2002

To: Council Member Lisa Goodman, Community Development Committee,

Prepared by Charles Curtis, Financial Analyst, Phone 612-673-5069

Approved by Chuck Lutz, MCDA Interim Executive Director \_\_\_\_\_

**Subject:** A Public Hearing and Request for Final Approval of \$9,580,000 in Health Care Facilities Tax-exempt Refunding Revenue Bonds for City of Minneapolis Series 2002 for Catholic Eldercare Community Foundation.

**Previous Directives:** 1982 Issue of \$5.2 million to construct the original 150 bed nursing home. 1989 Refunding of the 1982 Bonds in the amount of \$6,444,000. 1994 Series A and B Issues totaling \$5.6 million to fund expansion of the nursing home and construction of the assisted living addition to the campus. 1997 Issue of \$4,000,000 to refund the current interest portion of the 1989 Bonds

**Ward:** 3                      817 Main Street NE  
                                     909 Main Street NE

**Neighborhood Group Notification:** St Anthony West Neighborhood has been notified.

**Consistency with *Building a City That Works*:** The Project is consistent with Goal 4 of preserving and enhancing the urban institutes and amenities that define Minneapolis.

**Comprehensive Plan Compliance:** The Project complies with the policies of the Minneapolis Plan.

**Zoning Code Compliance:** Existing facilities are in compliance.

Crown Roller Mill,  
105 Fifth Ave. S., Suite 200  
Minneapolis, MN 55401-2534  
Telephone: (612) 673-5095  
TTY: (612) 673-5154  
Fax: (612) 673-5100  
www.mcda.org

**Impact on the MCDA Budget:**

- ☐ No financial impact
- ☐ Action requires an appropriation increase to the MCDA Budget
- ☐ Action provides increased revenue for appropriation increase
- ☐ Action requires use of contingency or reserves
- ☒ Other financial impact (Explain): The issuance of tax-exempt revenue bonds will generate annual administrative fees that are used to support the small business assistance programs of the City.

**Living Wage/Business Subsidy:** Does not apply.

**Job Linkage:** Does not apply.

**Affirmative Action Compliance:** The existing affirmative action plan on file with the City will be updated.

**RECOMMENDATION:**

**City Council Recommendation:** The Interim Executive Director recommends that the City Council adopt the attached Resolution, a summary of which will be published, following a public hearing held on October 17, 2002, notice of which was published in Finance and Commerce on September 28, 2002, giving Final Approval to the issuance of \$9,580,000 in Health Care Facilities Tax-exempt Refunding Revenue Bonds at an interest rate not to exceed 7.0% for City of Minneapolis Series 2002 for Catholic Eldercare Community Foundation.

It is further recommended that the Minneapolis City Council waive its Health Care Facilities Revenue Bond policies of Minimum Rating and Feasibility Study and consent to the continued suspension of the Pilot Agreement for Catholic Eldercare Community Foundation.

Background/Supporting Information

PROJECT LOCATION & DESCRIPTION:

817 Main Street NE  
909 Main Street NE  
Ward 3

In 1982 the City issued \$5.2 million in Nursing Home Revenue Bonds for the construction of a 150-bed skilled care nursing home for Catholic Eldercare, Inc. The site of the 3-story facility at 817 Main Street NE is owned by the Church of St. Anthony of Padua, Inc., who lease it to Catholic Eldercare under a ground lease. The site also provides parking for 65 vehicles. In 1989, the 1982 bonds were refunded along with approximately \$1.1 million used to make additional improvements.

In 1994 the City issued \$5.6 million to construct an assisted living facility at the Main Street campus. As part of the 1994 bond issue, Catholic Eldercare, Inc. entered into a PILOT agreement with payments expected to begin in 1996. However the nursing home entered into the State's Alternative Payment System which does not allow for reimbursement of PILOT payments. Therefore, the PILOT program has been

suspended as long as the nursing home is enrolled in the Alternative Payment System. In 1997 the City issued \$4,000,000 to refund the current interest of the 1989 Bonds.

At this time, Catholic Eldercare is requesting refunding revenue bonds to refund all existing tax-exempt bonds related to the existing Catholic Eldercare campus.

The Refunding Bonds will be amortized over a 20-year term and will result in reduced interest costs.

The Refunding Bonds will be backed by a 5-year Letter of Credit from Wells Fargo Bank.

NOTE: Copies of the following bond documents are on file with the Minneapolis Community Development Agency and can be reviewed by contacting Virginia Parent, Board Coordinator (612-673-5136).

1. Loan Agreement
2. Trust Indenture
3. Bond Purchase Agreement

PRESENT EMPLOYMENT: 275

NEW EMPLOYMENT: 0

ASSESSOR'S ESTIMATED ANNUAL TAX INCREASE: Tax-exempt Facility

AFFIRMATIVE ACTION COMPLIANCE: Updated plan will be submitted.

MCDA IRB POLICIES:

In 1991 as the result of a joint effort by the City's Finance Office, City Assessor and MCDA, a PILOT Program (payment in lieu of taxes) was set up for the issuance of nursing home revenue bonds. The Minneapolis City Council and MCDA Board of Commissioners on March 29, 1991 adopted the following guideline for the issuance of nursing home revenue bonds: "All nursing home revenue bonds issued by the MCDA/City for a project which is not currently paying real estate property taxes should be subject to a PILOT policy as a condition of final approval on the issuance of the revenue bonds." The ability to charge a PILOT payment came from a State of Minnesota Statute in 1981. State law allows cities to collect payments from nursing homes covering the basic services of fire, police, road maintenance and sanitation.

The availability of tax-exempt revenue bond financing has allowed our Minneapolis nursing homes to make much needed improvements and to construct new nursing

home facilities to meet the changing needs of our aging population. At the same time, the PILOT program recognizes the City services of police, fire and road maintenance that are provided to nursing homes, with the PILOT providing a means to reimburse the City for these services. Since 1991, the MCDA has closed on a number of nursing home projects that have all entered into a PILOT Agreement wherein the City Assessor notifies the nursing home on an annual basis the amount of the PILOT payment due the City of Minneapolis. The nursing home PILOT tax capacity rate is determined by the City Finance Office on an annual basis with the amount tied to the provision of police, fire and road maintenance. The City of Minneapolis does not include sanitation-related expenses when figuring the PILOT tax capacity rate, in that the nursing homes contract privately for sanitation services.

Since the inception of the PILOT program in 1991, eleven (11) nursing homes have entered into PILOT Agreements through the issuance of tax-exempt revenue bonds. In 1995 the State Legislature passed the Alternative Payment Demonstration Project, a program administered by the Department of Human Services as an alternative payment system to the then State's current practice of reimbursing nursing home care costs. A number of our nursing homes elected to enter into this alternative demonstration program and therefore had their PILOT's suspended as long as they were enrolled in the alternative payment program. The suspension of the PILOTs has reduced the amount of the PILOT payments going to the City of Minneapolis.

#### HEALTH CARE FACILITIES REVENUE BOND POLICIES

ALL HEALTH CARE REVENUE BONDS ISSUED BY THE CITY OF MINNEAPOLIS TO BE OFFERED FOR SALE TO THE PUBLIC MUST BEAR AT LEAST A "BBB" (OR EQUIVALENT) RATING FROM AN ESTABLISHED RATING AGENCY OR BE SECURED BY A LETTER OF CREDIT OR INSURANCE FROM A FINANCIAL INSTITUTION RATED AT LEAST "BBB" (OR EQUIVALENT) SUFFICIENT AT ALL TIMES TO COVER DEBT SERVICE.

Catholic Eldercare has performed well on the payment of the prior Revenue Bonds. The current refunding will reduce interest costs. Catholic Eldercare has an historically strong financial performance.

In addition the following security is provided: Letter of Credit from Wells Fargo Bank

ALL APPLICATIONS FOR HEALTH CARE REVENUE BONDS MUST INCLUDE FEASIBILITY STUDY UNLESS EXCEPTED UNDER POLICY CONDITIONS.

A feasibility study was not conducted due to the nature of the project. Catholic Eldercare is not expanding in resident size, therefore, occupancy is not in question

ALL NURSING HOME REVENUE BONDS ISSUED BY THE CITY OF MINNEAPOLIS FOR A PROJECT WHICH IS NOT CURRENTLY PAYING REAL ESTATE PROPERTY TAXES, SHALL BE SUBJECT TO A P.I.L.O.T. POLICY AS A CONDITION OF FINAL APPROVAL ON THE ISSUANCE OF REVENUE BONDS.

Tax-exempt facility. Catholic Eldercare is under a PILOT Agreement which is suspended due to Catholic Eldercare's election to be under the State's Alternative Payment Plan. While enrolled in the Alternative Payment Plan, the PILOT expenses are not a pass through expense for the nursing home.

Job Component	<p>Minimum standard of one (1) job per 1,000 square feet of building area.</p> <p><u>Catholic Eldercare:</u> Refunding only.</p>
Property Improvements	<p>No more than 25% of the bond proceeds may be used for land and acquisition. If purchasing an existing building, an amount equal to at least 15% of the acquisition cost must be spent on rehabilitation expenditures.</p> <p><u>Catholic Eldercare:</u> In compliance.</p>
Development Standards	<p>Compliance with the Land Use Plan of the City's Comprehensive Plan.</p> <p><u>Catholic Eldercare:</u> In compliance.</p>
Equipment Financing	<p>Limited to companies that create or preserve a significant number of jobs, and the equipment financed must be sufficiently secured. No more than 10% of the bond proceeds may be used to finance movable equipment not constituting a fixture.</p> <p><u>Catholic Eldercare:</u> Preserving 275 Jobs. In compliance.</p>
Restaurant/Bank	<p>IRB financing is allowed for a restaurant or a bank if it is built or rehabilitated in an MCDA Redevelopment Area. No more than 25% of the bond proceeds can be used to finance retail food and beverage establishments, automobile dealerships or recreation or entertainment facilities.</p> <p><u>Catholic Eldercare:</u> N.A.</p>
Tax-exempt Institution	<p>Refinancing is permitted when new jobs are created or when a significant number of jobs is preserved; any interest cost savings must directly reduce patient costs.</p> <p><u>Catholic Eldercare:</u> Preserves 275 jobs, reduces interest rate on refunding.</p>

IRB CAP:

The project is not subject to the volume cap, in that the project is exempt from income tax under Internal Revenue Code Section 501(c)(3) for its exempt purposes and is classified thereunder as a non-profit organization.

BOND COUNSEL:

Faegre & Benson LLP

UNDERWRITER:

Wells Fargo Brokerage Services, LLC

COUNCIL MEMBER INFORMED:

Ward 3

Authorizing the issuance and sale of refunding revenue bonds on behalf of Catholic Eldercare Community Foundation.

WHEREAS, the City of Minneapolis, Minnesota (the "City") is, by the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Chapter 462C and Sections 469.152 to 469.165, as amended (the "Act"), authorized to issue and sell its revenue bonds for the purpose of financing costs of authorized projects and to enter into agreements necessary or convenient in the exercise of the powers granted by the Act; and

WHEREAS, for the purpose of financing the construction and equipping of and improvements to a skilled nursing home licensed for 150 skilled nursing beds, and a 50 -unit assisted living rental housing facility located at 817 Main Street NE and 909 Main Street NE in the City of Minneapolis (the "Project"), the City has heretofore issued (i) its Nursing Home Refunding Revenue Bonds (Catholic Eldercare, Inc. Project), Series 1989, of which certain capital appreciation bonds payable on May 1, 2004 in the amount of \$1,555,000 remain outstanding and unpaid, (ii) its Skilled Nursing and Assisted Living Revenue Bonds (Catholic Eldercare Skilled Nursing Project), Series 1994A, currently outstanding and subject to redemption in the amount of \$1,620,000, (iii) its Skilled Nursing and Assisted Living Revenue Bonds (Catholic Eldercare Assisted Living Project), Series 1994B, currently outstanding and subject to redemption in the amount of \$3,400,000, and (iv) its Nursing Home Revenue Refunding Bonds (Catholic Eldercare, Inc. Project), Series 1997, currently outstanding and subject to redemption in the amount of \$2,885,000 (collectively, the "Refunded Bonds"); and

WHEREAS, representatives of Catholic Eldercare (the "Corporation"), a Minnesota nonprofit corporation and organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") have submitted an application to the City requesting the issuance of refunding revenue bonds (the "Bonds") for the purpose of refunding the Refunded Bonds in advance of their maturity, for the purpose of reducing debt service costs for the Corporation; and

WHEREAS, as required by Section 147(f) of the Code, the City Council of the City conducted a public hearing on October 17, 2002, on the proposal to undertake the refunding of the Refunded Bonds after publication of notice thereof in a newspaper of general circulation in the City; and

WHEREAS, the Bonds will be issued under an Indenture of Trust (the "Indenture"), and the proceeds of the Bonds will be loaned to the Corporation pursuant to a Loan Agreement (the "Loan Agreement"), and the Bonds will be secured by a pledge of all rights and revenues derived by the City from the Loan Agreement (except certain retained rights of the City), and said Bonds and the interest on said Bonds shall be payable solely from the revenues pledged therefor and the Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation nor give rise to a pecuniary liability of the City or a charge against its general credit or assets and shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City's interest in said Project; and

WHEREAS, forms of the following documents (including the exhibits referred to therein) have been submitted to the City:

a. The Indenture to be made and entered into between the City and the trustee named therein (the "Trustee"), providing for the issuance of the Bonds, prescribing the form thereof, pledging the trust estate described therein for the security of the Bonds, and setting forth proposed recitals, covenants and agreements by the parties with respect thereto;

b. The Loan Agreement to be made and entered into between the City and the Corporation, providing for the loan of the proceeds of the Bonds to the Corporation, and for the repayment of such loan;

c. The Bond Purchase Agreement, to be dated as of the date of execution thereof (the "Bond Purchase Agreement"), by and among the City, the Corporation and Wells Fargo Brokerage Services, LLC (the "Underwriter") providing for the purchase of the Bonds by the Underwriter; and

d. A Preliminary Official Statement (the "Preliminary Official Statement").

The agreements described and referred to in paragraphs a through c above shall hereinafter sometimes be referred to collectively as the "Agreements."

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINNEAPOLIS:

That it is hereby found, determined and declared that:

a. The issuance and sale of the Bonds by the City, and the execution and delivery of the Agreements and the performance of all covenants and agreements of the City contained therein and of all other acts and things required under the Constitution and Laws of the State of Minnesota to make the Agreements and the Bonds valid and binding obligations of the City in accordance with their terms, are authorized by the Act;

b. It is desirable that the Bonds in the principal amount not to exceed \$10,000,000 be issued by the City, on the terms set forth in the Indenture and the Bond Purchase Agreement;

c. The payments required or provided for by the Agreements are intended to produce income and revenues sufficient to provide for the payment when due of principal of and interest on all Bonds issued under the Indenture, and payments are required to be made for such expenses of, among other things, administration of the program, as will be necessary to protect the interests of the City and the Trustee;

d. Pursuant to the provisions of the Act, and as provided in the Agreements, the Bonds shall be retired solely from amounts derived from the Loan Agreement, including the revenues of the Project; and

e. It is hereby found, determined and declared that the refunding of the Refunded Bonds for the purpose of reducing debt service costs of the Corporation furthers the purposes set forth in the Act.



Be It Further Resolved that the Agreements in substantially the forms submitted to the City at this meeting are hereby approved. Such of the documents as require the execution of the City are hereby authorized and directed to be executed or accepted, as the case may be, and delivered in the name and on behalf of the City by its Mayor, City Clerk and Finance Officer upon execution thereof by the parties thereto as appropriate. The Bonds and the Agreements shall be executed and delivered as provided therein. Copies of all the documents necessary for the consummation of the transactions described herein and in the Agreements shall be delivered, filed and recorded as provided herein and in the Agreements.

Be It Further Resolved that the form and terms of the Agreements may be varied prior to execution and delivery by the parties thereto, provided that any such variance shall not be, in the opinion of the City's legal counsel and the Mayor, materially adverse to the interests of the City. The execution and delivery of the Agreements as provided above shall be conclusive evidence of the determination that any such variance was not materially adverse to the interests of the City.

Be It Further Resolved that in anticipation of the collection of revenues of the Project, there shall be issued forthwith the Bonds, in the aggregate principal amount not to exceed \$10,000,000, which issuance is approved, substantially in the forms and upon the terms set forth in the Indenture, the terms of which are for this purpose incorporated in this resolution and made a part hereof as if fully set forth herein. The Bonds shall be dated as of the date and shall mature on the dates (subject to redemption on such earlier dates as provided in the Indenture), bear interest and be payable at the variable rates, all determined as set forth in the Indenture.

Be It Further Resolved that all actions of the members, employees and staff of the City heretofore taken in connection with the proposed issuance of the Bonds are hereby approved, ratified and confirmed.

Be It Further Resolved that the sale of said Bonds to the Underwriter to be determined is hereby approved, and the Bonds are hereby directed to be sold to the Underwriter, upon the terms and conditions set forth in the Bond Purchase Agreement. The Mayor, City Clerk and Finance Officer of the City are hereby authorized and directed to prepare and execute by manual or facsimile signature the Bonds as described in the Indenture and to deliver them to the Trustee (which is herein designated as the

authenticating agent under Minnesota Statutes, Section 475.55) for authentication and delivery to or as directed by the Underwriter, together with a certified copy of this resolution, and the other documents required by the Indenture.

Be It Further Resolved that the Mayor, City Clerk, Finance Officer and other officers of the City are authorized and directed to prepare and furnish when the Bonds are issued, certified copies of all proceedings and records of the City relating to the Bonds and such other affidavits and certificates (including but not limited to those required by bond counsel) as may be required to show the facts relating to the legality, tax exemption and marketability of the Bonds as such facts appear from the books and records in said officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements made by the City and contained therein. The Mayor, City Clerk, Finance Officer and said officers are further authorized to execute such additional documents as shall be determined by the Mayor to be necessary and desirable to provide for the issuance of the Bonds.

Be It Further Resolved that the Mayor, City Clerk, Finance Officer and other officers of the Issuer consent to the distribution of the Preliminary Official Statement relating to the Bonds, substantially in the form on file with the Issuer. The Mayor, City Clerk, Finance Officer and said officers further consent to the use by the Underwriter in connection with the sale of the Bonds of a final Official Statement, substantially in the form of the Preliminary Official Statement described above. The Preliminary Official Statement and the Official Statement are the sole materials consented to by the Mayor, City Clerk, Finance Officer and said officers for use in connection with the offer and sale of the Bonds. The Mayor, City Clerk, Finance Officer and said officers have not participated in the preparation thereof, have not made any independent investigation of the information contained therein and shall have no liability in connection with the contents of or use of such offering materials.

Be It Further Resolved that all covenants, stipulations, obligations and agreements of the City contained in this resolution and the aforementioned documents shall be deemed to be the covenants, stipulations, obligations and agreements of the City to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall be binding upon the City. Except as otherwise provided in this resolution, all rights, powers and privileges conferred and duties and liabilities

imposed upon the City by the provisions of this resolution or of the aforementioned documents shall be exercised or performed by the City or by such members of the City, or such officers, board, body or agency thereof as may be required or authorized by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member of the City, or any officer, agent or employee of the City in that person's individual capacity, and neither the City Council nor any officer or employee executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

No provision, covenant or agreement contained in the aforementioned documents, the Bonds or in any other document related to the Bonds, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to any pecuniary liability of the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants and representations set forth in such documents, the City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the Project or the proceeds of the Bonds which are to be applied to the payment of the Bonds, as provided therein and in the Indenture. The Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property or funds of the City except the revenue and proceeds pledged to the payment thereof, nor shall the City be subject to any liability thereon. The holders of the Bonds shall never have the right to compel any exercise of the taxing power of the City to pay the outstanding principal of the Bonds or the interest thereon, or to enforce payment thereof against any property of the City. The Bonds shall recite in substance that the Bonds, including the interest thereon, are payable solely from the revenues and proceeds pledged to the payment thereof. The Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation.

Be It Further Resolved that except as herein otherwise expressly provided, nothing in this resolution or in the aforementioned documents expressed or implied is intended or shall be construed to confer upon any person or firm or corporation, other than the City or any holder of the Bonds issued under the provisions of this resolution, any right, remedy or claim, legal or equitable, under and by reason of this resolution or any provision hereof, this resolution, the aforementioned documents and all of their

provisions being intended to be and being for the sole and exclusive benefit of the City and any holder from time to time of the Bonds issued under the provisions of this resolution.

Be It Further Resolved that in case any one or more of the provisions of this resolution, or of the aforementioned documents, or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the aforementioned documents, or of the Bonds, but this resolution, the aforementioned documents, and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Be It Further Resolved that the Bonds, when executed and delivered, shall contain a recital that they are issued pursuant to the Act, and such recital shall be conclusive evidence of the validity of the Bonds and the regularity of the issuance thereof, and that all acts, conditions and things required by the laws of the State of Minnesota relating to the adoption of this resolution, to the issuance of the Bonds and to the execution of the aforementioned documents to happen, exist and be performed precedent to and in the enactment of this resolution, and precedent to issuance of the Bonds and precedent to the execution of the aforementioned documents have happened, exist and have been performed as so required by law.

Be It Further Resolved that in the event any of the officers of the City authorized to execute documents on behalf of the City under this resolution shall have resigned or shall for any reason be unable to do so, any member of the City Council, or officer of the City, is hereby directed and authorized to do so on behalf of the City, with the same effect as if executed by the officer authorized to do so in this resolution.

Be It Further Resolved that the Bonds are hereby designated "Program Bonds" and are determined to be within the "Health Care Program" and the "Program," all as defined in Resolution 88R-021 of the City adopted January 29, 1988, and as amended by Resolution 97R-402 of the City adopted December 12, 1997.

Be It Further Resolved that this Resolution shall take effect upon publication.